

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

NO. 4:08CR00081-01 JLH

ANTONIO SANDOVAL CRUZ

DEFENDANT

**ORDER**

Antonio Sandoval Cruz has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. He argues, in part, that his lawyer was ineffective because she failed to inform him of the consequences of objecting to the quantity of methamphetamine for which he was held responsible in the presentence report. Cruz had stipulated to the quantity in the plea agreement. Because he objected to the quantity in the presentence report, he was not credited with acceptance of responsibility, which resulted in a guideline range for his sentence higher than it would have been had he been given credit for acceptance of responsibility. The Court imposed a sentence at the low end of the guideline range, so it is likely that Cruz would have received a lower sentence had the guideline range been lower.

Although the government argues that the record conclusively establishes that Cruz was informed of the consequences of objecting to the quantity in the presentence report and had an opportunity to withdraw his objection, after careful review of the transcripts of the change of plea hearing and the sentencing hearing, the Court is not convinced that the record conclusively establishes that Cruz was informed of the consequences of his objections. An evidentiary hearing will be necessary to resolve the issues raised in Cruz's motion. The Court appoints Assistant Federal Public Defender Molly Sullivan to represent Cruz. A hearing will be scheduled by separate order.

IT IS SO ORDERED this 2nd day of August, 2012.

A handwritten signature in black ink, reading "J. Leon Holmes". The signature is written in a cursive, flowing style. The "J" is large and loops around the "L". The "H" is also large and loops around the "M". The "S" is written with a long, sweeping tail that extends to the right.

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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE